

Board Administration and Regulatory Coordination Unit

Division 3. Air Resources Board

Chapter 1. Air Resources Board

Subchapter 1.25. Administrative Procedures–Hearings

Article 2. Administrative Hearing Procedures for Petitions for Review of Executive Officer Decisions

Subarticle 1. General Provisions

§ 60055.2. Definitions.

(a) The definitions applicable to these rules include those set out in the Health and Safety Code (commencing with section 39010) and in Title 13, California Code of Regulations, Chapter 5, Standards for Motor Vehicle Fuels, sections 2250, et seq., and Chapter 8, Clean Fuels Program, sections 2300, et seq.

(b) The following definitions also apply:

(1) “Administrative record” means all documents and records timely filed with the hearing office, pursuant to section 60055.4 and the time deadlines of these rules, including pleadings, petitions, motions, and legal arguments in support thereof; all documents or records admitted into evidence or administratively noticed by the hearing officer; all official recordings or written transcripts of hearings conducted; and all orders or decisions issued by the hearing officer or the state board regarding the petition for review of an executive officer decision; administrative record does not include any prohibited communications as defined in section 60055.13, and any settlement discussions or offers of settlement pursuant to section 60055.24.

(2) “Days” means calendar days.

(3) “Default” means the failure of any party to take the steps necessary and required by these regulations to further the hearing towards resolution, resulting in a finding by the hearing officer of forfeiture of the cause of action against that party.

(4) “Discovery” refers to the process set forth in section 60055.25 allowing one party to request and obtain information relevant to the proceedings. The scope of discovery is limited by the express terms of that section.

(5) “Ex Parte Communication” means an oral or written communication not on the public record for which reasonable prior notice to all parties should have been given.

(6) “Hearing Office” refers to the administrative hearings office established by the state board to conduct administrative hearings to implement the provisions of these rules or to the Office Administrative Hearings established pursuant to Government Code section 11370.2. The administrative hearing office of the state board shall include at least one administrative law judge who shall act as a hearing officer.

(7) “Hearing Officer” refers to an administrative law judge appointed by the state board to conduct hearings under these procedures or an administrative law judge appointed by the Office of Administrative Hearings.

(8) “Intervenor” means a person who is allowed to voluntarily enter into the proceedings with leave of the hearing officer.

(9) “Party” includes the petitioner, the executive officer and employees of the state board, and an intervenor to the extent permitted by the hearing officer pursuant to section 60055.21. Notice to the executive officer shall constitute notice to all employees of the state board involved in the case.

(10) “Petition” means petition to review an executive officer decision.

(11) “Petitioner” means a person directly affected by a decision of the executive officer who requests a hearing pursuant to Subarticle 5 to review that decision.

(12) “Proceeding” means any hearing, determination or other activity before the hearing officer involving the parties to a petition for review.

(13) “Response” means a document filed by the executive officer responding to the petition for review.

(14) “Settlement Agreement” means a written agreement executed by the petitioner, the executive officer, and, to the extent permitted by the hearing officer pursuant to section 60055.21(b)(4), an intervenor that respectively settles the allegations at issue in the petition for review.

NOTE: Authority cited: Sections 39600, 39601 and 39010, et seq., Health and Safety Code. Reference: *Mathews v. Eldridge*, 424 U.S. 319 (1976); Sections 39514 and 43105, Part 5, (commencing with 39010) Health and Safety Code; Sections 2250, et seq., 2300, et seq., title 13; and Sections 60075.1, et seq., Article 5, title 17, California Code of Regulations.

REFERENCE